

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON TAXATION**

**Call to Order:** By **CHAIRMAN BOB STORY**, on March 1, 2001 at 8:00 A.M., in Room 472 Capitol.

#### **ROLL CALL**

##### **Members Present:**

Rep. Bob Story, Chairman (R)  
Rep. Ron Erickson, Vice Chairman (D)  
Rep. Roger Somerville, Vice Chairman (R)  
Rep. Joan Andersen (R)  
Rep. Keith Bales (R)  
Rep. Joe Balyeat (R)  
Rep. Gary Branae (D)  
Rep. Eileen Carney (D)  
Rep. Larry Cyr (D)  
Rep. Rick Dale (R)  
Rep. Ronald Devlin (R)  
Rep. John Esp (R)  
Rep. Gary Forrester (D)  
Rep. Daniel Fuchs (R)  
Rep. Verdell Jackson (R)  
Rep. Butch Waddill (R)  
Rep. Karl Waitschies (R)

**Members Excused:** Rep. Jesse Laslovich (D)  
Rep. Trudi Schmidt (D)  
Rep. David Wanzienried (D)

**Members Absent:** None.

**Staff Present:** Jeff Martin, Legislative Branch  
Rhonda Van Meter, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

##### **Committee Business Summary:**

Hearing(s) & Date(s) Posted: HJ 2, 2/26/2001  
Executive Action: HB 277

HEARING ON HJ 2

Sponsor: REP. ROGER SOMERVILLE, HD 78, Kalispell

Opening Statement by Sponsor:

*{Tape : 1; Side : A; Approx. Time Counter : 3.2}*

REP. ROGER SOMERVILLE, HD 78, Kalispell, referred to the Legislative Budget Analysis Book **EXHIBIT**(tah47a01) and went over it's contents. He gave a history of HJ 2.

Testimony:

*{Tape : 1; Side : A; Approx. Time Counter : 12.2}*

**Chuck Swysgood, Governor's Office of Budget Programming and Planning**, went over a revenue estimate that was attainable along the best information available to the office at that time. There are no changes in the basic assumptions about the economy. There are certain risks that the actual revenues may fall short of or exceed but the proposed estimates represent a balance of those risks. Revenue projections are not being jacked up to meet budget demands nor are they being held down to meet budget reductions.

**Clayton Schenk, Legislative Fiscal Analyst**, stated, there are three agencies that work on revenue estimates. They are the Budget Office, the Legislative Fiscal Division and the Department of Revenue. He went over the process the agencies went through to come up with the revenue estimates. These estimates represent the executive estimates since they were adopted as part of the Martz Executive Budget. The two branches, Executive and Legislative, have come very close on their estimates.

**Kurt Alme, Director, Department of Revenue**, stated, the staffs have worked very hard to arrive at the presentations for HJ 2. He went over the process of coming up with the estimates. This is the best revenue estimate the agencies could come up with at this point.

**Terry Johnson, Principle Fiscal Analyst, Legislative Fiscal Division**, gave a history of HJ 2. *{Tape : 1; Side : B; Approx. Time Counter : 0.3}* He went over the Economic Overview. When we are talking about the revenue for the 2003 biennium we are talking somewhere in the range of \$2.4 billion for the two year period and \$3.5 billion for the three year period.

**Mr. Alme** went over the information on page 6, table 3 of **EXHIBIT(1)**. He also went over a memo from the Department of Revenue **EXHIBIT(tah47a02)**.

**Questions from Committee Members and Responses:**

***{Tape : 1; Side : B; Approx. Time Counter : 21.9}***

**REP. SCHMIDT** asked **Mr. Alme** what is SABHRS? **Mr. Alme** stated SABHRS is the statewide accounting system. **REP. SCHMIDT** asked more questions regarding SABHRS but the tape was illegible.

**REP. ERICKSON** asked **Mr. Alme** if the DPHHS error was something that occurred there or occurred in DOR. **Mr. Alme** stated it was an issue that was internal in DPHHS.

**REP. SCHMIDT** asked **Mr. Alme** what kind of error occurred in DPHHS? **Mr. Alme** stated it was a recording error. The question was deferred to **Mr. Johnson** who stated most other agencies have similar problems with the new accounting system and DPHHS was not unique in that. In their particular situation it took them several months before they even got to the point where they were current on the new accounting system. The new accounting system effectively went into place on July 1<sup>st</sup> and it took them several months before they were finally caught up. In some cases they did not get completely caught up until the end of the fiscal year. They don't record a lot of revenue in the general fund as they have a lot more on the expenditure side. In this case they just deposited some revenue into the general fund account that should not have been there and they had to make a correcting entry to take that revenue out of the general fund and put it in a different account.

**REP. ERICKSON** asked **Mr. Alme** to give the committee some confidence that the new accounting system is going to be better than it has been. **Mr. Alme** stated the need for many of these adjustments was discovered by the department. Several steps have been taken by the department to make sure these types of issues don't arise again.

**REP. SCHMIDT** asked **Mr. Johnson** what the ending fund balance was a year ago before the process started? **Mr. Johnson** stated a lot of things have happened since that time. Prior to the special session the Legislative Fiscal Division published a document that specified the projected ending fund balance at the end of the 2003 biennium which was approximately \$226,000,000. That number did not take into account any of the proposed initiatives.

**{Tape : 2; Side : A; Approx. Time Counter : 0.1}** **REP. SCHMIDT** asked is there any area that is more difficult to predict? **Mr. Johnson** stated yes. The Inheritance Tax and Corporate Income Tax are extremely volatile.

**REP. BALES** asked **Mr. Alme** to explain how the Public Institution Reimbursements are figured as a revenue source or deducting from the revenue source. **Mr. Alme** stated all revenue sources to the state are shown. **REP. BALES** asked did they enter the amount they received? The question was deferred to **Mr. Johnson** who stated, in the case of Public Institution Reimbursements there are four different types of revenue Montana receives in the general fund. They are Medicaid reimbursements, Medicare reimbursements, insurance payments and private payments. The state funds those public institutions out of the state general fund and the state gets federal monies to match those general fund contributions. In terms of Public Health and Human Services, because they run the state Medicaid and Medicare programs they are the agency that is responsible for recording those revenues into the state general fund. Before the end of the year they had miscoded some revenue deposited into the general fund that should not have been there. They made the correcting entry to fix that.

**REP. SCHMIDT** asked **Mr. Schenk** what were the differences in the revenue estimate between the agencies? **Mr. Schenk** stated the differences are in the assumptions that the agencies use. He went over the differences in detail. **REP. SCHMIDT** asked **Mr. Johnson** how different are the estimates now compared to January 15<sup>th</sup>? **Mr. Johnson** stated the revenue estimates before the committee are the official numbers adopted by the Revenue and Taxation Committee on November 16<sup>th</sup> and 17<sup>th</sup>. By statute the revenue estimates that are adopted by that committee are mandated to be the revenue estimates used by the legislature until they are amended by the legislature.

**REP. STORY** asked **Curt Nicholson, Budget Office**, did the Governor's office go through and adopt the HJ 2 numbers to use as it's numbers in preparing the budget and looking at ending fund balances? **Mr. Nicholson** stated that is correct. When the Martz administration came in they adopted the HJ 2 numbers as their revenue estimates. **REP. STORY** asked why wasn't HJ 2 heard in January instead of March? Has the extra month made any difference in the process? **Mr. Nicholson** stated it helps a little bit in trends. The agencies are constantly getting new information. There wasn't anything this session that showed a significant change.

**REP. WANZENRIED** asked **Mr. Johnson** to explain the effects of the problems with SABHRS and the incompleteness of the Comprehensive

Annual Financial Report. **Mr. Johnson** stated the best that we can use is the preliminary ending fund balance and there will be an official balance by the end of March. **REP. WANZENRIED** asked if it is customary to have this done before the session? **Mr. Johnson** stated yes, normally the official, audited, ending fund balance is available in December prior to the session. **REP. WANZENRIED** asked why is this late? **Mr. Johnson** stated there are a number of factors. The Department of Administration goes through the process of actually preparing all of the accounting records and they submit that information to the State Auditor. With the new state accounting system there has been a number of problems in terms of getting everything reconciled.

**REP. SOMERVILLE** handed out a Cross Reference Chart **EXHIBIT (tah47a03)** and explained it.

**Mr. Johnson** handed out House Joint Resolution 2 General Fund Revenue Estimates **EXHIBIT (tah47a04)** and the contents of **EXHIBIT(1)**

#### Discussion on Natural Resource Taxes

*{Tape : 2; Side : A; Approx. Time Counter : 0.1}*

##### Coal Severance Tax

**Mr. Johnson** went through the section on the Coal Severance Tax (**EXHIBIT(1)** pages 35-36) and there was discussion on it.

##### Electrical Energy Tax

*{Tape : 2; Side : A; Approx. Time Counter : 26}*

**Mr. Johnson** went through the section on the Electrical Energy Tax (**EXHIBIT(1)** pages 37-38) and there was discussion on it.

##### Metalliferous Mines Tax

*{Tape : 2; Side : A; Approx. Time Counter : 31.3}*

**Mr. Johnson** went through the section on the Metalliferous Mines Tax (**EXHIBIT(1)** pages 39-41) and there was discussion on it.

##### Natural Gas Production Tax & Oil Production Tax

*{Tape : 3; Side : A; Approx. Time Counter : 16.5}*

**Mr. Johnson** went through the section on the Natural Gas Production Tax and the Oil Production Tax (**EXHIBIT(1)** pages 42-45) and there was discussion on those.

**US Mineral Royalty**

*{Tape : 3; Side : B; Approx. Time Counter : 3.2}*

**Mr. Johnson** went through the section on the US Mineral Royalty Tax (**EXHIBIT(1)** pages 16-47) and there was discussion on it.

**Wholesale Energy Tax**

*{Tape : 3; Side : B; Approx. Time Counter : 15.1}*

**Mr. Johnson** went through the section on the Wholesale Energy Tax (**EXHIBIT(1)** pages 48-49) and there was discussion on it.

**EXECUTIVE ACTION ON HB 277**

*{Tape : 3; Side : B; Approx. Time Counter : 17.8}*

**Motion:** REP. FUCHS moved that HB 277 DO PASS.

**Motion:** REP. FUCHS moved that AMENDMENT HB027701.agp BE ADOPTED.

**Discussion:**

REP. FUCHS handed out the amendment **EXHIBIT(tah47a05)** and explained it.

**Mr. Martin** explained how the amendment affects the bill.

REP. SCHMIDT asked, does the Fiscal Note reflect the amendment?

REP. STORY stated no. REP. SCHMIDT stated then there is nothing

to show the affect of the amendment? REP. STORY stated, the current Fiscal Note would disappear except for the \$20,000,000 out of the trust fund, there would be a \$20,000,000 increase in the general fund and there will be some interest lost. REP.

SCHMIDT stated she does not appreciate doing executive action at this time as it was unexpected. REP. FUCHS stated it was not his intention to catch anyone off guard. REP. SCHMIDT stated she does not believe it is imperative to do executive action on the bill at this time.

REP. WANZENRIED asked isn't funding supposed to be done by the two bills that are in the Education Committee? Is the committee essentially setting the appropriation level by authorizing this?

**REP. FUCHS** stated this money would be in addition to the current level of funding. **REP. WANZENRIED** asked what's the fiscal impact to the general fund if this \$20,000,000 is taken out? **REP. STORY** stated the \$20,000,000 is already scheduled to be taken out. There was discussion on the impact to the general fund.

**REP. BRANAE** stated this is a major amendment and bill and he would like to think about it before it is voted on.

**REP. WAITSCHIES** asked **REP. FUCHS** does this \$20,000,000 go right into the education bill? **REP. FUCHS** stated it depends on how the bill is written.

**REP. STORY** clarified the amendment.

*{Tape : 4; Side : A; Approx. Time Counter : 0.1}*

There was some informal discussion on the amendment.

**REP. DALE** asked **REP. STORY** would this affect the school funding that was put in place during the special session? **REP. STORY** stated, we are not dispensing the money in this proposal we are trying to make it available to the Education Committee. **REP. DALE** asked, then would it still receive the intended 3.5% that was passed in the special session? **REP. STORY** stated yes, this bill does not affect that.

**REP. BALLYEAT** asked so when we say there is a 0% increase schedule under the administration's proposal that really is continuing the 3.5% increase that they got in the special session? **REP. STORY** stated that is one way to look at it.

**REP. BALLYEAT** asked **REP. FUCHS** weren't there some newspaper editorials that suggested this? **REP. FUCHS** stated yes there were. This has been a continuing suggestion. **REP. BALLYEAT** stated he supports these amendments because there is a crisis and the money in the savings needs to be used for this "rainy day".

**REP. WANZENRIED** stated, the public wants the legislature to do something comprehensive. This is exactly what the public doesn't want. There is no long term except to take \$20,000,000 now. The only reason this has to be done is because there is a crisis from the past actions of the legislature.

**REP. FUCHS** asked **REP. WANZENRIED** where is the comprehensive plan? Are you saying it is the majority's responsibility to come up with that? **REP. WANZENRIED** stated there have only been two hearings on education. This is probably the second major issue

in the legislature and there have been no comprehensive discussions on it. **REP. FUCHS** stated, most of the discussion on education has been in the Education Committee.

**REP. CARNEY** asked what the difference between a trust and an endowment is? **REP. STORY** stated not a whole lot. **REP. CARNEY** asked, so endowments are good and trusts are bad? **REP. BALLYEAT** stated this bill is not suggesting to abolish the Coal Trust Fund. It's suggesting to take a small portion of the fund and use it. It is not a bad idea since there is such a tight budget and problems in education.

**REP. SCHMIDT** stated the bottom line here is to see if the Democrats are willing to bust the trust. Executive action should not be sprung on the committee as it is inappropriate.

**REP. FUCHS** apologized for requesting executive action. His goal is to fund education in the way it needs to be funded.

**REP. SCHMIDT** stated it is not going to happen this way. This bill does not need to be acted on today. It is inappropriate to see who is willing to bust the trust.

**REP. FUCHS** stated it is not about busting the trust. The people of Montana want the legislators to do their job.

**REP. DEVLIN** asked, if the amendments are on the bill and the bill passes it takes \$20,000,000 from the permanent trust and puts it in the general fund? From there the ball is in appropriations court? **REP. STORY** stated the bill is to spend the money in education. **REP. DEVLIN** stated then this is just to let appropriations know that there is some more money available that can be used only for K-12 schools.

**REP. BRANAE** stated, the public wants the legislature to do a thorough job and find the right way to do this. We need to study this to find the best way.

**REP. FUCHS** asked is there a bill to study the funding formula?

**REP. STORY** stated he has heard of that bill but has not seen it.

**REP. WANZENRIED** asked **REP. SOMERVILLE** what was the fiscal impact of HB 377 the way it passed? **REP. SOMERVILLE** stated there was a \$5.4 million tax credit that will be given to individuals that have contributed to charitable organizations. **REP. WANZENRIED** stated it is ironic that the committee spent weeks on that bill.



**Vote:** Motion that **AMENDMENT HB027701.agp** BE ADOPTED carried 12-8 with Branae, Carney, Cyr, Erickson, Forrester, Laslovich, Schmidt, and Wanzenried voting no.

**Motion:** REP. FUCHS moved that **HB 277 DO PASS AS AMENDED.**

**Discussion:**

*{Tape : 4; Side : A; Approx. Time Counter : 19.8}*

**Substitute Motion:** REP. WANZENRIED made a substitute motion to DEFER ACTION ON THE BILL FOR THREE DAYS.

**Discussion:**

REP. WADDILL stated there are a number of attempts to blast bills to the floor in order to get more discussion on the bill. If this bill is passes there will be more discussion on it. It requires a 3/4 vote so it would take a preponderance of both parties to pass.

REP. SCHMIDT stated the committee would be wise to delay action.

**Vote:** Substitute motion to **DELAY ACTION ON THE BILL FOR THREE DAYS** failed 8-12 with Branae, Carney, Cyr, Erickson, Forrester, Laslovich, Schmidt, and Wanzenried voting aye.

**Vote:** Motion that **HB 277 DO PASS AS AMENDED** carried 12-8 with Branae, Carney, Cyr, Erickson, Forrester, Laslovich, Schmidt, and Wanzenried voting no.

**ADJOURNMENT**

Adjournment: 11:40 A.M.

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REP. BOB STORY, Chairman

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HOLLY JORDAN, Transcription Secretary

BS/RV/HJ Transcribed by Holly Jordan

**EXHIBIT (tah47aad)**